



## Health Care Reform Bulletin

February 18, 2011

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### Student Coverage IFR

Last week the Department of Health & Human Services released an interim final regulation (IFR) focusing on insurance provided to students through their college or university. The main goal of this IFR is to resolve certain incompatibilities between student health insurance and Healthcare Reform. For instance, traditionally eligibility for student health insurance is conditioned on current enrollment, which clashes with certain Healthcare Reform provisions requiring guaranteed renewability. To resolve these conflicts, the IFR carves out certain instances in which student health insurance is exempted from incompatible Healthcare Reform provisions. The IFR also indicates that student health insurance coverage will be defined as individual coverage, and that eligibility may not be conditioned on a health factor.

### Court Developments

You may have heard about a recent ruling in one of the challenges to Healthcare Reform. This case is just one of many lawsuits about Healthcare Reform that are working their way through the court system right now. We believe that this recent decision only reinforces the advisability of our patient and cautious approach to the situation. Scholars and experts hold widely varying opinions as to the constitutionality of the law, and although many stakeholders would like the case to be appealed directly to the Supreme Court (thereby skipping over the Courts of Appeals) this is unlikely to happen. Because developments in this area will continue to unfold over the next several years, we will remain committed to a strategy that emphasizes gathering all of the necessary information to help you make strategic benefits decisions.

### IRS News

Last week the IRS released a notice reversing its previous position on whether breast pumps and lactations aids qualified as medical expenses. As a result amounts spent on these items may now be reimbursed as medical expenses under FSA, HRA and HSA plans. Though not strictly related to Healthcare Reform, this new policy mirrors much of the support for nursing mothers found in the Healthcare Reform bills. Please also keep in mind that the IRS recently reversed its previous position prohibiting the use of FSA and HRA debit cards for purchase of qualifying over the counter medications. Now, over the counter medications for which a prescription has been obtained may be purchased with an FSA or HRA debit card, so long as the pharmacy or retail outlet conforms to certain record-keeping standards like obtaining the prescription and assigning a prescription number. Please be aware that the IRS notice does not include HSA debit cards; these cards may not be used to purchase otherwise qualifying over the counter medication.